

### REMARKS

Applicants respectfully request entry of the amendments and remarks submitted herein. Claim 1 has been amended herein and non-elected claims 20-24 have been canceled without prejudice to continued prosecution. The Abstract also has been amended as required by the Examiner. Claims 11-19 are currently pending. Reconsideration of the pending application is respectfully requested.

#### The 35 U.S.C. §112 Rejections

Claims 17 and 18 stand rejected under 35 U.S.C. §112, first paragraph, as the Examiner asserted that those claims fail to comply with the written description requirement. The Examiner asserted that the specification discloses that a change in impedance or conductivity in the direct current and/or alternating-current region can be measured as a function of a superimposed alternating-voltage or current frequency but that the specification fails to specifically disclose measuring a change in amplitude or phase to identify the presence of the anti-counterfeiting mark. This rejection is respectfully traversed.

Applicants submit that the original disclosure describing a variety of electrical properties and ways in which electrical properties can be measured inherently includes a description of amplitude and phase. The amplitude and phase components are well-known in the art, and the claims directed toward those properties does not constitute new matter. In view of the remarks herein, Applicants respectfully request that the rejection of claims 17 and 18 under 35 U.S.C. §112, first paragraph, be withdrawn.

#### The 35 U.S.C. §102 Rejections

Claims 11-16 and 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Bamdad (WO 98/31839). The Examiner asserted that Bamdad anticipates the instant claims by teaching a process for identification of a biopolymer that includes all of the claimed steps. This rejection is respectfully traversed.

Applicants submit that a preamble must be read in the context of the entire claim (MPEP §2111.02). The preamble reciting the purpose or intended use of the claimed invention must be

evaluated to determine whether the recited purpose or intended use results in a structural difference between the claimed invention and the prior art. If so, the recitation serves to limit the claim. See, e.g., *In re Otto*, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963). Applicants submit that the disclosure of Bamdad does not teach or suggest identifying an anti-counterfeiting mark, which is the intended use recited in Applicant's preamble. See, e.g., MPEP §2111.02 and *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). In addition, pending claim 11 recites a step of "applying an anti-counterfeiting mark to a surface of a first substrate ..." Bamdad does not teach or suggest the step of applying an anti-counterfeiting mark to a substrate.

Therefore, Applicants' claimed process for the identification of an anti-counterfeiting mark is novel and is not anticipated (nor made obvious) by the Bamdad reference. In view of the remarks herein, Applicants respectfully request that the rejection of claims 11-16 and 18 under 35 U.S.C. §102(b) be withdrawn.

#### The 35 U.S.C. §103 Rejections

Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bamdad (WO 98/31839) in view of Kell et al. (US Patent No. 4,810,650). The Examiner asserted that Bamdad teaches a process for identification of a biopolymer and that the occurrence of binding of biopolymers can be detected by monitoring changes in voltage. The Examiner asserted that it is well known in the art that the voltage can be characterized by frequency and amplitude, and that Kell et al. teaches that a voltage detector measures a signal representative of the amplitude of voltage between two voltage-sensing electrodes. The Examiner asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of the two references to monitor the binding of biopolymers. Applicants respectfully traverse this rejection.

As indicated above, Bamdad does not teach or suggest the claimed process of identifying an anti-counterfeiting mark. In addition, the Kell et al. reference does not remedy these deficiencies; i.e., the Kell et al. reference does not teach or suggest the claimed process of identifying an anti-counterfeiting mark that includes the step of applying an anti-counterfeiting mark to a substrate. As neither reference, alone or in combination, teaches or suggests the

claimed process, Applicants respectfully request that the rejection of claim 17 under 35 U.S.C. §103(a) be withdrawn.

Claim 19 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bamdad (WO 98/31839) in view of Pfab et al. (U.S. Patent No. 5,018,527). The Examiner asserted that Bamdad teaches a process for identifying a biopolymer, but that Bamdad fails to teach a process whereby the electrical property is carried out by a reference electrode and/or a counter electrode. The Examiner asserted that Pfab et al. teaches that a reference electrode forms a constant reference point for the measuring electrode of the sensor. The Examiner asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings in the two references. This rejection is respectfully traversed.

As indicated above, Bamdad does not teach or suggest the claimed process of identifying an anti-counterfeiting mark. In addition, the Pfab et al. reference does not remedy these deficiencies; i.e., the Pfab et al. reference does not teach or suggest the claimed process of identifying an anti-counterfeiting mark that includes the step of applying an anti-counterfeiting mark to a substrate. As neither reference, alone or in combination, teaches or suggests the claimed process, Applicants respectfully request that the rejection of claim 17 under 35 U.S.C. §103(a) be withdrawn.

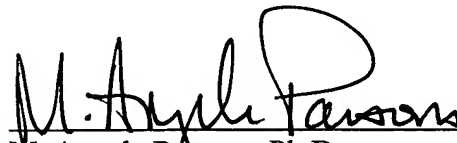
#### CONCLUSION

Applicants respectfully request allowance of claims 11-19. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date:

December 8, 2005



M. Angela Parsons, Ph.D.  
Reg. No. 44,282

Fish & Richardson P.C., P.A.  
60 South Sixth Street, Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (612) 288-9696  
60310075.doc